

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Donaghy	Team: Squad #2	CCRB Case #: 201906533	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/24/2019 7:30 AM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 1/24/2021	EO SOL 9/10/2021	
Date/Time CV Reported Thu, 07/25/2019 3:44 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/25/2019 3:44 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 David Hudgens	7823	952864	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Randy Chow	09356	954642	WARRSEC
2. DT3 Piero Lasaponara	01161	947157	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 David Hudgens	Abuse: Detective David Hudgens entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 David Hudgens	Abuse: Detective David Hudgens searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On July 25, 2019, § 87(2)(b) filed the following complaint via a telephone call with the CCRB. § 87(2)(b) also filed a CCRB complaint via the CCRB webpage on July 25, 2019.

On July 24, 2019, at approximately 7:20 a.m., Detective David Hudgens, Police Officer Randy Chow, and Detective Piero Lasaponara of the Warrant Squad arrived outside of § 87(2)(b)'s apartment at § 87(2)(b), in Brooklyn. At the time no one was present inside § 87(2)(b)'s apartment. Detective Hudgens forcibly opened the door to, entered, and searched § 87(2)(b)'s apartment (**Allegation A: Abuse of Authority – Entry of Premises, § 87(2)(g)**) (**Allegation B: Abuse of Authority – Search of Premises, § 87(2)(g)**). Detective Hudgens, Police Officer Chow, and Detective Lasaponara then left the scene.

The investigation obtained footage from the security cameras inside of § 87(2)(b) capturing this incident, which is located in IA # 32 (Board Review 01) and is summarized in IA # 56 (Board Review 02).

Findings and Recommendations

Allegation (A) Abuse of Authority – Detective David Hudgens entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority – Detective David Hudgens searched § 87(2)(b) in Brooklyn.

On August 19, 2019, § 87(2)(b) provided a telephone statement to the CCRB (Board Review 03). On February 20, 2020, Detective David Hudgens was interviewed at the CCRB.

It is undisputed that, at the time of this incident, Detective Hudgens was the investigating officer for an I-Card, with probable cause to arrest, for § 87(2)(b)'s son § 87(2)(b). On the morning of July 24, 2019, Detective Hudgens, Police Officer Randy Chow, and Detective Piero Lasaponara arrived at and entered § 87(2)(b), in Brooklyn. There was no one inside the apartment at the time that Detective Hudgens, Police Officer Chow, and Detective Lasaponara entered it.

The CCRB obtained a video of this incident from surveillance cameras located inside § 87(2)(b), which is located in IA # 32 (Board Review 01) and is summarized in IA # 56 (Board Review 02). In the video, Detective Hudgens, Police Officer Chow, and Detective Lasaponara all approach the closed door of § 87(2)(b). Detective Hudgens knocks on the door eight times over the course of five minutes, stating at timecode 3:52, “Good morning, this is the NYPD warrant squad, I have a warrant to enter. We don’t want any trouble, open the door please. Don’t make it any worse.” At timecode 4:47, Detective Hudgens turns his back to the door and appears to use his left foot to strike the door, opening it. Immediately afterwards Detective Hudgens placed his hand on the door, holding it open, and states, “I don’t want to hurt the door, come out please.”

At timecode 6:28 Detective Hudgens opens the door further, appears to look inside the apartment, and then at timecode 6:48 he states, “Hello! Good morning! Warrant squad, [inaudible].” At timecode 7:12 Detective Hudgens steps fully into the apartment, with Detective Lasaponara also crossing the threshold of the apartment and stepping in. Police Officer Chow steps into the arc of the door, propping it open with his foot, and appears to remain in that position for all the remaining time that Detective Hudgens and Detective Lasaponara are inside the apartment. Detective Hudgens and Detective Lasaponara remain inside § 87(2)(b), and at timecode 10:46 unknown male voices can be heard to state, “Show us your hands!” and, “You better come out before we come in!” After

approximately eight minutes Detective Hudgens and Detective Lasaponara exit the apartment, and then enter an elevator with Police Officer Chow, leaving the scene.

The CCRB obtained documentation from the Warrant Squad, which is located in IA # 92 (Board Review 04). DD5s for this case showed that on July 24, 2019, a search for warrants for § 87(2)(b) by Detective Hudgens revealed “no active warrants.” The DD5s for this case do not document an entry and search inside § 87(2)(b). Warrant Squad responded negatively to a request for any active warrants for § 87(2)(b) on the day of this incident.

During his CCRB interview Detective Hudgens did not initially recall entering § 87(2)(b), or entering § 87(2)(b). When presented with the footage discussed above, Detective Hudgens stated that apparent foot strike that he used on the door was not intended to breach into the apartment and was intended only to knock louder on the door. Detective Hudgens initially stated that he entered the apartment because the door became, “unsecured,” and he had to make sure that nobody inside was hurt or needed help, and that he had no reason to enter the apartment other than to ensure that nobody was hurt. Detective Hudgens stated that, aside from the state of the door, there was no other reason to believe someone was hurt at the time he entered the apartment.

Detective Hudgens recalled hearing a “slow movement,” which sounded like a “slow scratch,” coming from inside the apartment. Detective Hudgens heard this sound after the door opened when he “peeked in” to the apartment to listen. Detective Hudgens looked into the apartment and noticed that it appeared to be messy, which he took as more evidence that something “bad” had happened. Detective Hudgens and Detective Lasaponara then entered the apartment and looked through various rooms, trying to find any persons who were inside the apartment, but they were unable to find anyone. Eventually, either Detective Hudgens or Detective Lasaponara looked underneath a bed inside the apartment and found that there was a pitbull dog. After finding the pitbull dog, Detective Hudgens and Detective Lasaponara left the apartment.

The courts have established that warrantless entries into private residences are presumed unconstitutional. Exceptions to this rule include consent, hot pursuit, exigent circumstances, and an emergency situation. § 87(2)(g)

To analyze warrantless emergency entry of a residence, the courts utilize a three-part test: “(1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; (2) The search must not be primarily motivated by intent to arrest and seize evidence; (3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.” People v. Rodriguez, 77 A.D.3d 280 (2010) (Board Review 05). People v. Rodriguez notes that, in Brigham City v. Stuart (Board Review 06), the United States Supreme Court ruled that the second prong, regarding the officers’ subjective motivations, was “irrelevant” when assessing emergency entries. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to two previous CCRB complaints (Board Review 07).
 - § 87(2)(b)
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- Detective Hudgens has been a member of service for 7 years and has been the subject in one previous CCRB complaint with 7 allegations, which is still open. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On July 2, 2020, submitted a FOIL request for any notice of claim related to this incident to the Office of the New York City Comptroller. Any response will be added to the case file upon receipt.

Squad No.: 2

Investigator: Inv. Matthew Donaghy Inv. Matthew Donaghy July 2, 2020
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 7/3/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date